IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.88 OF 2002

Padmini Dagdu Gejge and others .. Petitioners
v/s.
Dagdu Nivrutti Gejge and another .. Respondents

Mr. D.S. Sawant for the petitioners.
Mr. S.D. Dharmadhikari for the respondent No.1.
Mr. P.A. Pol, Additional Public Prosecutor for the respondent No.2.

CORAM : S.C. DHARMADHIKARI, J.
DATED : 27TH APRIL, 2007

P.C.

By this writ petition under Article 227 of the Constitution of India, the petitioner-original applicant has challenged the order passed by the Revisional Court denying maintenance to her.

2. The petitioner No.1 is the wife whereas the petitioner Nos.2 to 4 are the minor sons and daughter. The first respondent is the husband.

3. During the course of oral submissions, it is pointed out to me that petitioner No.4 Seema is residing with the first petitioner wife whereas petitioner Nos.2 and 3 minor sons are residing with the first respondent husband.

4. The first respondent is working as Clerk in Osmanabad Court. I

was also informed by the learned counsel appearing for both sides that the first petitioner wife has been residing at Satara. During the pendency of these proceedings, the first respondent-husband moved petition for restitution of conjugal rights which was initially allowed and at the instance of the first petitioner-wife, the Lower Appellate Court set aside the judgment and order and has remitted the matter back to the trial court. Thus, the petition for restitution of conjugal rights filed by the first respondent-husband is pending.

5. During the course of hearing of this petition, attempts were made to settle the matter. I had also called parties in my chamber. After talking to them for some time, both of them have now agreed to put an end to their matrimonial relationship amicably. However, other terms could not be agreed upon. The first respondent-husband has been paying maintenance in respect of the petitioner No.4-daughter and has also been taking care of the sons who are residing with him. He insists that petitioner No.1-wife should give up her claim for maintenance. In any event, he is agreeable to put an end to the relationship.

6. The counsel appearing for the wife states that as far as the other terms are concerned, they would be agreed to and settled subsequently. However, the wife has no objection to appropriate proceedings being filed in the competent court at Osmanabad and so also, converting the present petition under section 9 into a petition for divorce by mutual consent under section 13B of the Hindu Marriage Act, 1955.

7. In the light of the agreement between parties, both sides further agree that this petition need not be proceeded further and it be disposed of by reserving liberty to the petitioner No.1 to file appropriate proceedings at a subsequent stage. Needless to state that the petitioner No.1-wife would be at liberty to file such proceedings as are permissible in law for claiming maintenance in case the marriage could not be dissolved by mutual consent or the circumstances so necessitate.

(S.C. DHARMADHIKARI, J.)